

Message Text

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E.O. 11652: GDS

TAGS: PFOR UR US

SUBJECT: PREPARING FOR THE THIRD SUMMIT: TENTH ANNIVERSARY
OF US-USSR CONSULAR AGREEMENT

1. THE EMBASSY DRAWS THE DEPARTMENT'S ATTENTION TO THE FACT THAT THE TENTH ANNIVERSARY OF THE SIGNING OF THE US-USSR CONSULAR CONVENTION AND PROTOCOL FALLS ON JUNE 1, 1974. AS EXPLAINED BELOW, I BELIEVE IT WOULD BE USEFUL FOR SEVERAL REASONS TO NOTE THIS ANNIVERSARY IN THE COMMUNIQUE CONCLUDING THE PRESIDENT'S VISIT HERE IN JUNE. IF IT IS DECIDED THAT AN ANNOUNCEMENT OF THE ESTABLISHMENT OF NEW AMERICAN AND SOVIET CONSULATES IS ALSO TO BE MADE DURING THE THIRD SUMMIT, A REFERENCE TO THIS ANNIVERSARY WOULD BE EVEN MORE APPROPRIATE.

2. THE US-SOVIET CONVENTION, WHICH WAS NEGOTIATED OVER A THREE-YEAR PERIOD AND ENTERED INTO FORCE IN 1968, HAS CONTRIBUTED IMPORTANTLY TO CARRYING OUT THE TASKS OF THIS EMBASSY AND THE RECENTLY OPENED CONSULATE GENERAL IN LENINGRAD. CONSULAR OFFICERS ROUTINELY USE CONVENTION AND PROTOCOL PROVISIONS TO UPHOLD THE RIGHT OF SOVIET AND AMERICAN CITIZENS TO HAVE UNIMPEDED ACCESS TO THEIR OFFICES, TO GUARANTEE THEIR OWN PROMPT ACCESS TO DETAINED AMERICANS, AND TO JUSTIFY (WHENEVER NECESSARY) DIRECT APPROACHES TO SOVIET ORGANS WITHOUT THE NECESSITY OF RESORTING TO THE TIME-CONSUMING INTERMEDIATION OF THE MINISTRY OF FOREIGN AFFAIRS. THROUGH OTHER PROVISIONS THE CONVENTION HAS ENHANCED THE LEGAL STATUS OF AMERICAN

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CONSULAR OFFICERS IN THE SOVIET UNION, CONFERRING ON THEM FULL

DIPLOMATIC IMMUNITIES AND PRIVILEGES. OVERALL THIS 1964 AGREEMENT HAS FULFILLED TO A SATISFACTORY EXTENT THE EXPECTATIONS OF OUR GOVERNMENT FROM THE TIME OF ITS SIGNING IN MOSCOW.

3. AT THE SAME TIME THERE REMAIN REAL DIFFICULTIES IN CONDUCTING CONSULAR BUSINESS IN THE SOVIET UNION, DIFFICULTIES WHICH ARE AT LEAST PARTLY ATTRIBUTABLE TO IGNORANCE OF THE CONVENTION BY MANY WORKING-LEVEL SOVIET OFFICIALS AS WELL AS SOVIET-AMERICAN DISAGREEMENTS OVER THE INTERPRETATIONS OF ITS TERMS. TO CITE ONE EXAMPLE, THE EMBASSY INTERPRETS ARTICLES 4, 7 AND 12 OF THE CONVENTION TO MEAN PERSONS WITH LEGITIMATE CONSULAR BUSINESS CAN CALL ON A CONSULAR OFFICER WITHOUT UNTOWARD DELAYS OR INTERFERENCE; HOWEVER THE SOVIET AUTHORITIES, BY THEIR PRACTICES, AT TIMES BY THEIR WORDS, MAKE CLEAR THAT THEY CONSIDER ONLY AMERICAN CITIZENS WHO ARE ALIENS HERE (I.E., NOT DUAL US-SOVIET CITIZENS) CERTAIN OTHER NON-SOVIETS OR THOSE SOVIETS WITH EXIT PERMISSION ENJOY THE RIGHT TO VISIT AN AMERICAN CONSULAR OFFICER. LIKEWISE, SOVIET BORDER AUTHORITIES ARE GENERALLY NOW AWARE THAT AMERICAN CONSULAR OFFICERS HAVE A RIGHT UNDER THE CONVENTION TO VISIT OR COMMUNICATE WITH AMERICANS WHO CROSS THE BORDER WITHOUT A VISA OR WITH AN INCORRECT VISA, AND ARE DETAINED. OR THEY SIMPLY DENY THAT SUCH A RIGHT EXISTS. IN SHORT, CONTROVERSIES ARISE IN SOME INSTANCES BECAUSE SOVIET OFFICIALS LACK KNOWLEDGE OF THEIR OBLIGATIONS UNDER THE CONSULAR CONVENTION AND PROTOCOL, IN OTHER INSTANCES BECAUSE OF CONFLICTING INTERPRETATIONS OF THE AGREEMENT'S TERMS. THE DIFFICULTIES ARE COMPOUNDED BECAUSE RESPONSIBLE OFFICIALS OF THE MINISTRY OF FOREIGN AFFAIRS OR OTHER SOVIET AUTHORITIES ARE GENERALLY UNWILLING TO FOCUS SERIOUSLY ON THESE PROBLEMS.

4. I BELIEVE A REFERENCE IN THE THIRD SUMMIT'S FINAL COMMUNIQUE TO THE CONVENTION AND THE PROTOCOL, IN THE CONTEXT OF THEIR TENTH ANNIVERSARY, WOULD BE BENEFICIAL FOR TWO REASONS. FIRST, IT WOULD CONTRIBUTE TO DISSEMINATING KNOWLEDGE ABOUT THIS IMPORTANT AGREEMENT TO WORKING-LEVEL SOVIET OFFICIALS, WHO HAVE ULTIMATE RESPONSIBILITY FOR ITS CORRECT IMPLEMENTATION. BECAUSE OF THE PUBLICITY NORMALLY PROVIDED US-SOVIET SUMMIT COMMUNIQUE IN THE SOVIET UNION, THE INCLUSION OF SUCH A CONFIDENTIAL

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REFERENCE WOULD ENSURE THAT A WIDE AUDIENCE OF CENTRAL AND PROVINCIAL SOVIET OFFICIALS, INCLUDING POLICE, BORDER GUARDS, INTOURIST OFFICIALS, ETC., WHO DAILY DEAL WITH AMERICAN TOURIST AND TRAVELERS, WILL BE MADE AWARE THAT THERE IS SUCH A CONVENTION AND THAT ITS TERMS ARE DEEMED IMPORTANT BY THE SOVIET LEADERSHIP. SECOND, A REFERENCE TO THE AGREEMENT MIGHT LAY A BASIS FOR POSSIBLE FUTURE EMBASSY-MFA DISCUSSIONS TO CLARIFY THOSE PROVISIONS NOW SUBJECT TO DIFFERING

INTERPRETATIONS. THAT IS, THE RIGHT WORDS CAN PROMOTE, PERHAPS MANDATE, SUBSEQUENT DISCUSSION BETWEEN THE EMBASSY AND THE MINISTRY OF FOREIGN AFFAIRS TO RESOLVE CERTAIN CONTROVERSIAL QUESTIONS SUCH AS THE ISSUE OF "ACCESS" TO EMBASSY. ALTHOUGH A REVISION OF THE CONSULAR CONVENTION OR PROTOCOL IS IMPRACTICAL, CERTAIN COMMON INTERPRETATIONS AND AGREEMENTS ON PROCEDURES MIGHT BE WORKED OUT AND PUT ON THE RECORD THROUGH DISCUSSIONS AND AN EXCHANGE OF NOTES BETWEEN THE EMBASSY AND MFA.

5. THE FOLLOWING FORMULATION IS AN EXAMPLE OF WHAT LANGUAGE THE COMMUNIQUE MIGHT CONTAIN IN THIS REGARD: BEGIN QUOTE THE TWO SIDES MOTED WITH SATISFACTION THAT TEN YEARS HAVE PASSED SINCE THE SIGNING OF THE CONSULAR CONVENTION AND PROTOCOL BETWEEN THE USA AND USSR IN MOSCOW ON JUNE 1, 1964. RECOGNIZING THE IMPORTANCE OF THIS AGREEMENT IN FURTHERING TOURISM, TRAVEL, AND HUMAN CONTACTS BETWEEN THE USA SND THE USSR, THE TWO SIDES REAFFIRM THAT THEY ARE COMMITTED TO A STRICT IMPLEMENTATION OF ITS PROVISIONS, AND ENCOURAGE CLOSE COOPERATION AND PEDIODIC DISCUSSIONS AMONG RESPONSIBLE OFFICIALS IN FULFILLMENT OF ILIS OBJECTIVE. END QUOTE

6. IF IT IS AGREED THAT THE ESTABLISHMENT OF ADDITIONAL CONSULATES IS TO BE ANNOUNCED DURING THE PRESIDENT'S VISIT, THE ABOVE LANGUAGE OR AN APPROPRIATE ALTERNATIVE COULD BE WOVEN INTO THE ANNOUNCEMENT ITSELF.
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